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09/980,423	03/11/2002	Clemente Spehr	8074-3 (P13735 SB/vat)	3308

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WOODBURY, NY 11797

EXAMINER
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YIMAM, HARUN M

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/980,423

Applicant(s)

SPEHR, CLEMENTE

Examiner

Harun M. Yimam

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-29 and 31-38 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 24-29 and 31-38 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Although a new ground of rejection has been used to address additional limitations that have been added to **claims 24 and 31**, a response is considered necessary for several of applicant's arguments since applicants make arguments that need to be addressed and also since references DeLuca (US 5,973,723), Zigmond (US 6,698,020) and Goldschmidt (US 6,483,987) will continue to be used to meet several claimed limitations.
2. In response to applicants' argument (page 6, 3<sup>rd</sup> paragraph) that DeLuca does not teach the newly added limitations of amended claims 24 and 31, applicant should note that DeLuca does disclose that after generating the first signal, determining when said undesirable program section ends (the end of said undesirable program section is determined by timing and detecting the end of an associated delay—column 3, lines 19-52), said determination comprising automatically comparing said programs sequence while being transmitted with preceding program sections of said program sequence, said preceding program sections corresponding to program sections transmitted prior to said undesirable program section (In memory 50, previously transmitted program clip representations of at least one video image representative of an undesirable program

section is stored. Each program clip includes a corresponding delay of substantially thirty to sixty seconds. The associated delay for the undesirable program section currently being transmitted will be determined by comparing it with the those stored in memory and timing the associated delay—column 2, line 61 – column 3, line 52); automatically generating a second signal if at least one preceding program section is repeated (comparator 40 can identify occurrences of any undesirable program sections by comparing the incoming video image with a video image of previously received and stored undesirable program section, undesirable commercial segment, and cause selector 20 to respond by generation of a detect signal—column 2, line 61 – column 3, line 3).

3. In response to applicants' argument (page 7, 1<sup>st</sup> paragraph) that DeLuca's teaching of predetermined durations and associated delays for undesirable program segments does not read on the newly added limitations of amended claims 24 and 31, applicant should first note that in memory 50, previously transmitted program clip representations of at least one video image representative of an undesirable program section is stored. Each program clip includes a corresponding delay of substantially thirty to sixty seconds. The associated delay for the undesirable program section currently being transmitted will be determined by comparing it with the those stored in memory and timing the associated delay—column 2, line 61 – column 3, line 52. With this said, then comparator 40 can identify occurrences of any undesirable program sections by comparing the incoming video image with a video image of previously

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received and stored undesirable program section, undesirable commercial segment, and cause selector 20 to respond by generation of a detect signal—column 2, line 61 – column 3, line 3.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 24 – 27, 31 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by DeLuca (US 5,973,723).

Considering claim 24, DeLuca discloses a method of suppressing the recording and/or reproduction of undesirable program sections (undesirable program segments, such as some commercials—column 2, lines 61-67) of a program sequence (television broadcast programs) transmitted by a transmitter (by ground base antennas, or by satellite or cable networks—column 1, lines 64-67) to an entertainment electronic device (program receiver 10 in figure 1), comprising the steps of:

automatically analyzing said transmitted program sequence while being transmitted (column 2, line 61 - column 3, line 18), determining when one of said undesirable program sections starts (the comparator 40 in figure 1 digitizes and compares the audio and/or video program information with prestored program information from memory 50, to determine the beginning of an undesirable program segment (column 2, lines 21-60) and ends (since undesirable program segments have a predetermined duration, the delay means 45 in figure 1 determines when the undesirable program segment ends—column 3, lines 19-23), said determination comprising automatically comparing said program sequence while being transmitted with a plurality of undesired program sections stored in a database (comparator 40 in figure 1 digitizes and compares the audio and video program information with prestored program information i.e., program clip representation of at least one video image representative of an undesirable commercial segment—column 2, lines 65-67, from memory 50 in figure 1—column 2, lines 19-28), said undesired program sections stored in said database corresponding to previously identified undesirable program sections (predetermined information having at least one program clip—column 2, lines 24-37);

automatically generating a first signal (detect signal) if said program sequence starts to correlate with one of said undesired program sections stored in said database (column 2, lines 37-52);

sending said first signal to said entertainment electronic device (column 2, lines 39-41) which switches from a first operating state to a second operating state in response to said first signal (In response to the detect signal, selector 20 in figure 1,

which controls the program receiver 10 i.e., entertainment electronic device, deemphasizes the current program by termination presentation of the undesirable program information and emphasizes an alternate program by substituting the alternate program information—column 3, lines 3-7);

after generating the first signal, determining when said undesirable program section ends (the end of said undesirable program section is determined by timing and detecting the end of an associated delay—column 3, lines 19-52), said determination comprising automatically comparing said programs sequence while being transmitted with preceding program sections of said program sequence, said preceding program sections corresponding to program sections transmitted prior to said undesirable program section (In memory 50, previously transmitted program clip representations of at least one video image representative of an undesirable program section is stored. Each program clip includes a corresponding delay of substantially thirty to sixty seconds. The associated delay for the undesirable program section currently being transmitted will be determined by comparing it with the those stored in memory and timing the associated delay—column 2, line 61 – column 3, line 52);

automatically generating a second signal if at least one preceding program section is repeated (comparator 40 can identify occurrences of any undesirable program sections by comparing the incoming video image with a video image of previously received and stored undesirable program section, undesirable commercial segment, and cause selector 20 to respond by generation of a detect signal—column 2, line 61 – column 3, line 3); and

sending said second signal (a return signal) to said entertainment electronic device, which switches from said second operating state to one of said first operating state in response to said second signal (In response to a return signal, the selector 20 is instructed to return to the originally established program—column 2, lines 19-29).

As for claim 25, DeLuca discloses that the said program sequence comprises audio and video program information (column 2, lines 19-21), and wherein each of said undesired program sections stored in said database comprises audio and video program information (column 2, lines 21-24).

With regards to claim 26, DeLuca discloses that said comparison of said program sequence with said program sections stored in said database is carried out separately for said respective sound signals/audio and said picture signals/video (column 2, lines 19-24).

Regarding claim 27, DeLuca discloses that the said comparison of said program sequence with said undesired program sections stored in said database is a first criterion for determining said start of one of said undesirable program sections (column 2, lines 19-60).

Considering claim 31, it is met by the limitations of claim 24.



With regards to claim 38, DeLuca discloses that said entertainment electronic device is a television (column 4, lines 34-37) and said program sequence is a television program sequence (television broadcast programs—column 1, lines 62-67).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 28, 29 and 34 - 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLuca (US 5,973,723) in view of Zigmond (US 6,698,020).

Considering claim 28, DeLuca fails to explicitly disclose that said comparison comprises a second criterion, wherein the second criterion comprises recognizing of special patterns.

In analogous art, Zigmond discloses a second criterion, wherein the second criterion comprises recognizing of special patterns (column 8; lines 41-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeLuca's system to include a second criterion comprising recognizing of special patterns, as taught by Zigmond, for the benefit of detecting the completion of undesirable program segments without using additional signals.

As for claim 29, it is met by the combination of DeLuca and Zigmond. In particular, Zigmond discloses that determining said start of one of said undesirable program sections comprises a first weighting assessment (switching decision unit 88 in figure 5—column 15, lines 35-44) of said first criterion (comparison of said program sequence with said program sections stored in said database) and said second criteria (recognizing of special patterns) (by the structure of the video programming feed 52 in figure 3—column 7, lines 25-34 and column 15, lines 40-44), and said first signal (triggering event) is generated if said first weighting assessment reaches a predefined first threshold value (column 15, lines 52-65).

With regards to claim 34, it is met by the combination of DeLuca and Zigmond. In particular, Zigmond discloses that said first and second signals (triggering events—column 8, lines 30-54) are provided by an online service provider (column 7, lines 6-9 and 16-21), and further comprise the step of transmitting information with regard to a consumer behavior (viewer information—column 11, lines 14-30) of the user of said entertainment electronic device to said online service provider (column 4, lines 55-61 and column 10, lines 4-15).

Regarding claim 35, it is met by the combination of DeLuca and Zigmond. In particular, Zigmond discloses the steps of:

evaluating said information with regard to said consumer behavior at said online service provider (column 4, lines 25-35); and

selecting a replacement program in accordance with said evaluation and transmitting said replacement program to said entertainment electronic device by said online service provider (column 7, lines 61-67).

Considering claim 36, it is met by the combination of DeLuca and Zigmond. In particular, Zigmond discloses buffering of the replacement program (selected ads) (the transmitted selected ads are received and stored in a buffer memory - advertisement repository—column 15, lines 24-34 and column 16, lines 43-56), in a buffer memory (86 in figure 5); and temporally staggered reproduction of the buffered replacement program (the delay code embedded in the video programming stream temporally staggers the reproduction of the buffered replacement program—column 16, lines 30-43).

8. Claims 32, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLuca (US 5,973,723) in view of Zigmond (US 6,698,020), as applied to claim 24 above, and further in view of Goldschmidt (US 6,483,987).

Considering claim 32, DeLuca and Zigmond discloses that the video programming resumes upon termination of said advertisement (DeLuca— column 2, lines 19-29).

DeLuca and Zigmond fail to explicitly disclose a fourth criterion, wherein the fourth criterion comprises detecting transmitted subtitles.

In analogous art, Goldschmidt discloses a fourth criterion - detecting transmitted subtitles (column 6, lines 28-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of DeLuca and Zigmond to include detecting transmitted subtitles, as taught by Goldschmidt, for the benefit of identifying the completion of an advertisement and the resuming the video programming feed (Goldschmidt—column 6, lines 34-37).

As for claim 33, DeLuca and Zigmond fail to explicitly disclose the claimed limitations.

In analogous art, Goldschmidt discloses that said analysis to determine said end comprises a second weighting assessment (VBI analyzer 410—column 6, lines 41-44) of said third criterion (comparison of said program sequence with said preceding sequence parts) and said fourth criteria (detecting a change of a picture format of said program sequence) (column 6, line 34 – column 7, line 8), and said second signal (program indicator) is generated if said second weighting assessment reaches a predefined second threshold value (column 6, lines 41-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of DeLuca and Zigmond to include a second weighting assessment and generation of a second signal if said second weighting assessment reaches a predefined second threshold value, as taught by Goldschmidt, for the benefit of recognizing the point wherein the video programming feed resumes in the program sequence (Goldschmidt—column 6, lines 41-65).

9. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeLuca (US 5,973,723) in view of Goldschmidt (US 6,483,987).

Regarding claim 37, DeLuca and Zigmond disclose a method for suppressing the reproduction of undesirable advertisements (DeLuca—column 2, lines 61-65). DeLuca and Zigmond further disclose that the home entertainment system has video programming recording capabilities (Zigmond—column 6, lines 45-47).

DeLuca and Zigmond fail to explicitly disclose that the recording of a transmission onto a medium of a recording device contains the step of stopping said recording during said transmission of said transmitted program sequence of an undesirable program section and resuming it after the end of said undesirable program section.

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In analogous art, Goldschmidt discloses that a recording of a transmission onto a medium of a recording device contains the step of stopping said recording during said transmission of said transmitted program sequence of an undesirable program section (commercial) and resuming it after the end of said undesirable program section (column 1, lines 49-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of DeLuca and Zigmond to include the step of stopping said recording during said transmission of said transmitted program sequence of an undesirable program section (commercial) and resuming it after the end of said commercial, as taught by Goldschmidt, for the benefit of recording a desired television program without any commercial interruption.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HMY



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